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Attorneys for Defendant Marvin M. Brandt

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

UNITED STATES OF AMERICA,) No. 06CV184-J
)
Plaintiff,)
) UNOPPOSED MOTION TO
v.) AMEND TO SUBSTITUTE
) REAL PARTIES IN INTEREST
WYOMING AND COLORADO RAILROAD) AND TO AMEND THE
COMPANY, INC., <i>et al.</i> ,) CAPTION
)
Defendants.)
)

COMES NOW, Defendant Marvin M. Brandt, pursuant to Fed.R.Civ.P. Rules 15, 17, and 25, and moves this Court for leave to amend his Answer and Counterclaims to substitute the real parties in interest and to amend the caption. The grounds for this motion are as follows:

1. On July 14, 2006, Plaintiff United States of America filed its Complaint for Declaratory Judgment of Abandonment and to Quiet Title seeking, *inter alia*, a declaratory judgment that the Wyoming and Colorado Railroad Company, Inc., a right-of-way lying within the Medicine Bow National Forest in the State of Wyoming (“right-of-way”) has been abandoned and that all right, title, and interest in and to the right-of-way is vested in the United States.

2. On August 8, 2006, Marvin M. Brandt filed his Answer and Counterclaims, essentially denying Plaintiff’s claims and asserting that, *inter alia*, title to the right-of-way should be quieted in his favor, or in the alternative, that just compensation be awarded him for the taking of the right-of-way.

3. On February 28, 2007, the Court ordered the case bifurcated, the quiet title action is to be decided first, and takings claims are stayed pending resolution of the quiet title claims.

4. On March 9, 2007, Plaintiff filed its Amended Complaint for Declaratory Judgment of Abandonment and to Quiet Title.

5. While preparing Defendant Marvin M. Brandt’s Motion for Summary Judgment, undersigned counsel was made aware that the real parties in interest are Marvin M. Brandt Revocable Trust and Marvin M. Brandt, Trustee. To that end, undersigned counsel was made aware of the following facts:

On June 24, 2002, Marvin M. Brandt created the Marvin M. Brandt Revocable Trust and designated himself trustee. Concurrently, Marvin M. Brandt conveyed a Warranty Deed to the Marvin M. Brandt Revocable Trust, the following property:

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 34, 37, 38, 41, 42, 43, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 58, 59, and 60 Fox Park Estates in Government Tract 37, Section 21, Township 13 North, Range 78 West of the 6th P.M., Albany County, Wyoming.

6. Accordingly, Defendant submits that the real parties in interest are Marvin M. Brandt Revocable Trust and Marvin M. Brandt, Trustee.

7. Additionally, Defendant submits that the caption should be changed to reflect the real parties in interest and that Marvin M. Brandt Revocable Trust and Marvin M. Brandt, Trustee, should be substituted for Marvin M. Brandt, in his individual capacity, as defendants.

8. The undersigned counsel for Defendant Marvin M. Brandt consulted with counsel for Plaintiff, Nicholas Vassallo, who does not oppose the filing of this motion.

WHEREFORE, Defendant Marvin M. Brandt moves for leave to amend his Answer and Counterclaims to substitute as the real parties in interest Marvin M. Brandt Revocable Trust and Marvin M. Brandt, Trustee, and that the caption be amended accordingly.

DATED this 1st day of October, 2007.

Respectfully submitted by:
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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2007, I filed the foregoing **UNOPPOSED MOTION TO AMEND TO SUBSTITUTE REAL PARTIES IN INTEREST AND TO AMEND THE CAPTION** electronically through the CM/ECF system, which caused the following to be served by electronic means:

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I hereby certify that on this 1st day of October, 2007, I sent a true and accurate copy of **UNOPPOSED MOTION TO AMEND TO SUBSTITUTE REAL PARTIES IN INTEREST AND TO AMEND THE CAPTION** by U.S. Mail, first class, postage paid, addressed as follows:

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